110TH CONGRESS
1ST SESSION

H. R. 3800

To advance the adoption of nationwide interoperable health information technology and to improve health care quality and reduce health care costs in the United States.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2007

Ms. ESHOO (for herself and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To advance the adoption of nationwide interoperable health information technology and to improve health care quality and reduce health care costs in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Health Information Technology Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—IMPROVING THE INTEROPERABILITY OF HEALTH INFORMATION TECHNOLOGY

SEC. 101. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

"SEC. 3001. DEFINITIONS; REFERENCE.

"(a) IN GENERAL.—In this title:

"(1) COMMUNITY.—The term 'Community' means the American Health Information Community established under section 3004.

"(2) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as defined in section 1842(b)(18)(C) of the Social Security Act), a health

facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

"(3) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

"(4) HEALTH INSURANCE PLAN.—

"(A) IN GENERAL.—The term 'health insurance plan' means—

"(i) a health insurance issuer (as defined in section 2791(b)(2));

"(ii) a group health plan (as defined in section 2791(a)(1)); and

"(iii) a health maintenance organization (as defined in section 2791(b)(3)); or

"(iv) a safety net health plan.

"(B) SAFETY NET HEALTH PLAN.—The term 'safety net health plan' means a managed care organization, as defined in section 1932(a)(1)(B)(i) of the Social Security Act—

"(i) that is exempt from or not subject to Federal income tax, or that is owned by an entity or entities exempt from or not subject to Federal income tax; and

"(ii) for which not less than 75 percent of the enrolled population receives benefits under a Federal health care program (as defined in section 1128B(f)(1) of the Social Security Act) or a health care plan or program which is funded, in whole or in part, by a State (other than a program for government employees).

"(C) REFERENCES.—All references in this title to the term 'health plan' shall be deemed to be references to a health insurance plan.

"(5) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171 of the Social Security Act.

"(6) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353.

"(7) NATIONAL COORDINATOR.—The term 'National Coordinator' means the National Coordinator of Health Information Technology appointed pursuant to section 3002.

"(8) PARTNERSHIP.—The term 'Partnership' means the Partnership for Health Care Improvement established under section 3003.

"(9) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware, software, or provision of service) that—

"(A) protects the privacy and security of health information;

"(B) maintains and provides permitted access to health information in an electronic format;

"(C) complies with the standards adopted by the Federal Government under section 3003;

"(D) has the ability to transmit and exchange information to other health information technology systems and, to the extent feasible, public health information technology systems;

"(E) allows for the electronic capture and reporting of quality measures adopted under section 3011; and

"(F) has been certified by the Secretary or a designee of the Secretary to be in compliance with any applicable standards and implementation specifications adopted by the Secretary on or prior to the date of the enactment of this title.

"(10) INTEROPERABILITY.—The term 'interoperability' means the ability of different information technology systems and software applications to communicate, exchange data accurately, effectively, and consistently, and use the information that has been exchanged.

"(11) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(b) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to the Social Security Act shall be deemed to be a reference to such Act as in effect on the date of the enactment of this title.

"SEC. 3002. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY.

"(a) ESTABLISHMENT.—There is established within the office of the Secretary the Office of the National Coordinator of Health Information Technology, to be headed by the National Coordinator of Health Information Technology. The National Coordinator shall be appointed by the Secretary in consultation with the President, and shall report directly to the Secretary.

"(b) PURPOSE.—The National Coordinator shall be responsible for—

"(1) ensuring that key health information technology initiatives are coordinated across programs of the Department of Health and Human Services;

"(2) ensuring that health information technology policies and programs of the Department of Health and Human Services are coordinated with such policies and programs of other relevant Federal agencies (including Federal commissions and advisory committees) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability;

"(3) reviewing Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published by the Office of the National Coordinator of Health Information Technology to establish a nationwide interoperable health information technology infrastructure;

"(4) providing comments and advice regarding specific Federal health information technology programs, at the request of Office of Management and Budget; and

"(5) enhancing the use of health information technology to improve the quality of health care in

the prevention and management of chronic disease and to address population health.

"(c) ROLE WITH COMMUNITY AND THE PARTNERSHIP.—The National Coordinator shall—

"(1) serve as an ex officio member of the Community, and act as a liaison between the Federal Government and the Community;

"(2) serve as an ex officio member of the Partnership and act as a liaison between the Federal Government and the Partnership; and

"(3) serve as a liaison between the Partnership and the Community.

"(d) REPORTS AND WEBSITE.—The National Coordinator shall—

"(1) develop and publish a strategic plan for implementing a nationwide interoperable health information technology infrastructure;

"(2) maintain and frequently update an Internet website that—

"(A) publishes the schedule for the assessment of standards for significant use cases;

"(B) publishes the recommendations of the Community;

"(C) publishes the recommendations of the Partnership;

"(D) publishes quality measures;

"(E) identifies sources of funds that will be made available to facilitate the purchase of, or enhance the utilization of, health information technology systems, either through grants or technical assistance; and

"(F) publishes a plan for a transition of any functions of the Office of the National Coordinator of Health Information Technology that should be continued after September 30, 2014;

"(3) prepare a report on the lessons learned from major public and private health care systems that have implemented health information technology systems, including an explanation of whether the systems and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers; and

"(4) assess the impact of health information technology in communities with health disparities and identify practices to increase the adoption of such technology by health care providers in such communities.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the duplication of Fed-

eral efforts with respect to the establishment of the Office of the National Coordinator of Health Information Technology, regardless of whether such efforts are carried out before or after the date of the enactment of this title.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2008 through 2012.

"(g) SUNSET.—The provisions of this section shall not apply after September 30, 2014.

"SEC. 3003. PARTNERSHIP FOR HEALTH CARE IMPROVEMENT—STANDARDS AND TECHNOLOGY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established a public-private Partnership for Health Care Improvement to—

"(A) provide advice to the Secretary and the Nation and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

"(B) make recommendations concerning standards, implementation specifications, and certification criteria for the electronic exchange of health information (including for the reporting of quality data under section 3011) for

adoption by the Federal Government and voluntary adoption by private entities;

"(C) serve as a forum for the participation of a broad range of stakeholders with specific technical expertise in the development of standards, implementation specifications, and certification criteria to provide input on the effective implementation of health information technology systems; and

"(D) develop and maintain an Internet website that—

"(i) publishes established governance rules (including a subsequent appointment process);

"(ii) publishes a business plan;

"(iii) publishes meeting notices at least 14 days prior to each meeting;

"(iv) publishes meeting agendas at least 7 days prior to each meeting; and

"(v) publishes meeting materials at least 3 days prior to each meeting.

"(2) LIMITATION.—The Partnership shall not meet or take any action until an advisory committee charter has been filed with the Secretary and with the appropriate committees of the Senate and House

of Representatives for the Community described in section 3004.

"(b) MEMBERSHIP.—

"(1) APPOINTMENTS.—

"(A) IN GENERAL.—The Partnership shall be composed of members to be appointed as follows:

"(i) 2 members shall be appointed by the Secretary.

"(ii) 1 member shall be appointed by the majority leader of the Senate.

"(iii) 1 member shall be appointed by the minority leader of the Senate.

"(iv) 1 member shall be appointed by the Speaker of the House of Representatives.

"(v) 1 member shall be appointed by the minority leader of the House of Representatives.

"(vi) 7 members shall be appointed by the Comptroller General of the United States of whom—

"(I) 1 member shall be a representative of consumer or patient organizations;

"(II) 1 member shall be a representative of organizations with expertise in privacy;

"(III) 1 member shall be a representative of organizations with expertise in security;

"(IV) 1 member shall be a representative of health care providers;

"(V) 1 member shall be a representative of health plans or other third party payers;

"(VI) 1 member shall be a representative of information technology vendors; and

"(VII) 1 member shall be a representative of purchasers or employers.

"(B) NATIONAL COORDINATOR.—The National Coordinator shall be a member of the Partnership and act as a liaison among the Partnership, the Community, and the Federal Government.

"(2) CHAIRPERSON AND VICE CHAIRPERSON.—The Partnership shall designate 1 member to serve

as the chairperson and 1 member to serve as the vice chairperson of the Partnership.

"(3) BALANCE.—In appointing members under paragraph (1)(A)(vi), the Comptroller General of the United States shall ensure a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Partnership.

"(4) TERMS.—Members appointed under paragraph (1)(A) shall serve for 3-year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

"(5) OUTSIDE INVOLVEMENT.—The Partnership shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

"(A) health information privacy;

"(B) health information security;

"(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve health care quality and patient safety;

"(D) medical and clinical research data exchange; and

"(E) developing health information technology standards and new health information technology.

"(6) QUORUM.—Two-thirds of the members of the Partnership shall constitute a quorum for the purpose of conducting votes.

"(c) STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—

"(1) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the Partnership shall develop a schedule for the assessment of standards and implementation specifications under this section. The Partnership shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register and on the Internet website of the Department of Health and Human Services.

"(2) FIRST YEAR RECOMMENDATIONS.—Consistent with the schedule published under paragraph (1) and not later than 1 year after the date of the enactment of this title, the Partnership shall recommend, and the Secretary shall review, such standards and implementation specifications.

"(3) ONGOING RECOMMENDATIONS.—The Partnership shall review and modify, as appropriate but at least annually, adopted standards and implementation specifications and continue to recommend additional standards and implementation specifications, consistent with the schedule published pursuant to paragraph (1). The Secretary shall review such modifications and recommendations.

"(4) FOCUS OF RECOMMENDATIONS.—The recommendations for standards and implementation specifications under paragraphs (2) and (3) shall focus on health care information technologies that have the greatest potential to improve the quality and efficiency of health care, including—

"(A) technologies that protect the privacy of health information and promote security;

"(B) interoperable electronic health records;

"(C) replacement of paper forms with electronic alternatives;

"(D) self-service technologies that facilitate the provision of patient information and reduce wait times;

"(E) telemedicine technologies that reduce travel requirements for patients in remote areas;

"(F) technologies that facilitate home health care and the monitoring of patients recuperating at home;

"(G) technologies that help reduce medical errors;

"(H) technologies that facilitate the continuity of care among health settings; and

"(I) any other technology that the Partnership finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

"(5) RECOGNITION OF PRIVATE ENTITIES.—The Partnership, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing and updating standards and implementation specifications to achieve uniform and consistent implementation of the standards adopted by the President under paragraph (9). Such entity or entities shall make recommendations to the Partnership consistent with this section.

"(6) PUBLICATION.—All recommendations made by the Partnership pursuant to this section

shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator of Health Information Technology.

"(7) PILOT TESTING.—The Secretary may conduct, or recognize a private entity or entities to conduct, a pilot project to test the standards and implementation specifications developed under this subsection before the Partnership issues recommendations on such standards and implementation specifications in order to provide for the efficient implementation of such standards and implementation specifications.

"(8) PUBLIC INPUT.—The Partnership shall conduct open public meetings and develop a process to allow for public comment on the schedule and recommendations described in this subsection. Such process shall ensure that such comments will be submitted within 30 days after the publication of a recommendation under this subsection.

"(9) FEDERAL ACTION.—Not later than 90 days after the issuance of a recommendation from the Partnership under this subsection, the Secretary, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies as determined ap-

propriate by the President, shall jointly review such recommendation. If appropriate, the President shall provide for the adoption by the Federal Government of any standard or implementation specification contained in such recommendation. Such determination shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator of Health Information Technology within 30 days after such determination is made.

"(10) CONSISTENCY.—The standards and implementation specifications described in this subsection shall be consistent with the standards for information transactions and data elements developed pursuant to the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(d) CERTIFICATION.—

"(1) DEVELOPING CRITERIA.—The Partnership, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing and recommending to the Partnership criteria to certify that appropriate categories of health information technology products that claim to be in compliance with applicable standards and im-

plementation specifications adopted under this title have established such compliance.

"(2) ADOPTION OF CRITERIA.—The Secretary, based upon the recommendations of the Partnership, shall review and, if appropriate, adopt such criteria.

"(3) CONDUCTING CERTIFICATION.—The Secretary may recognize a private entity or entities to conduct the certifications described in paragraph (1) using the criteria adopted by the Secretary under this subsection.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as disrupting existing activities described in subsection (c) or (d).

"(f) REQUIREMENT TO CONSIDER RECOMMENDATIONS.—In carrying out the activities described in subsections (c) and (d), the Partnership shall adopt and integrate the recommendations of the Community that are adopted by the Secretary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2008 through 2012.

"SEC. 3004. AMERICAN HEALTH INFORMATION COMMUNITY POLICIES.

"(a) ESTABLISHMENT.—There is established a committee to be known as the American Health Information Community. The Community shall—

"(1) provide advice to the Secretary and the heads of any relevant Federal agencies concerning the policy considerations related to health information technology;

"(2) not later than 1 year after the date of the enactment of this title, and annually thereafter, make recommendations concerning a policy framework for the development and adoption of a nationwide interoperable health information technology infrastructure;

"(3) not later than 1 year after the date of the enactment of this title, and annually thereafter, make recommendations concerning national policies for adoption by the Federal Government, and voluntary adoption by private entities, to support the widespread adoption of health information technology, including—

"(A) the protection of individually identifiable health information, including policies concerning the individual's ability to control the ac-

quisition, uses, and disclosures of individually identifiable health information;

"(B) methods to protect individually identifiable health information from improper use and disclosures and methods to notify patients if their individually identifiable health information is wrongfully disclosed;

"(C) methods to facilitate secure access to such individual's individually identifiable health information;

"(D) the appropriate uses of a nationwide health information network including—

"(i) the collection of quality data and public reporting;

"(ii) biosurveillance and public health;

"(iii) medical and clinical research; and

"(iv) drug safety;

"(E) fostering the public understanding of health information technology;

"(F) strategies to enhance the use of health information technology in preventing and managing chronic disease;

"(G) policies to incorporate the input of employees of health care providers in the design

and implementation of health information technology systems; and

"(H) other policies determined to be necessary by the Community; and

"(4) serve as a forum for the participation of a broad range of stakeholders to provide input on improving the effective implementation of health information technology systems.

"(b) PUBLICATION.—All recommendations made by the Community pursuant to this section shall be published in the Federal Register and on the Internet website of the National Coordinator. The Secretary shall review all such recommendations, determine which such recommendations should be endorsed by the Federal Government, and publish such determinations on the Internet website of the Office of the National Coordinator of Health Information Technology within 30 days after the date on which each such determination is made.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Community shall be composed of members to be appointed as follows:

"(A) 3 members shall be appointed by the Secretary, 1 of whom shall be appointed to represent the Department of Health and Human Services.

"(B) 1 member shall be appointed by the Secretary of Veterans Affairs to represent the Department of Veterans Affairs.

"(C) 1 member shall be appointed by the Secretary of Defense to represent the Department of Defense.

"(D) 1 member shall be appointed by the majority leader of the Senate.

"(E) 1 member shall be appointed by the minority leader of the Senate.

"(F) 1 member shall be appointed by the Speaker of the House of Representatives.

"(G) 1 member shall be appointed by the minority leader of the House of Representatives.

"(H) 9 members shall be appointed by the Comptroller General of the United States of whom—

"(i) 1 member shall be an advocate for patients or consumers;

"(ii) 1 member shall represent health care providers;

"(iii) 1 member shall be from a labor organization representing health care workers;

"(iv) 1 member shall have expertise in privacy and security;

"(v) 1 member shall have expertise in improving the health of vulnerable populations;

"(vi) 1 member shall represent health plans or other third-party payers;

"(vii) 1 member shall represent information technology vendors;

"(viii) 1 member shall represent purchasers or employers; and

"(ix) 1 member shall have expertise in health care quality measurement and reporting.

"(2) CHAIRPERSON AND VICE CHAIRPERSON.—The Community shall designate 1 member to serve as the chairperson and 1 member to serve as the vice chairperson of the Community.

"(3) NATIONAL COORDINATOR.—The National Coordinator shall be a member of the Community and act as a liaison among the Community, the partnership, and the Federal Government.

"(4) PARTICIPATION.—The members of the Community appointed under paragraph (1) shall represent a balance among various sectors of the

health care system so that no single sector unduly influences the recommendations of the Community.

"(5) TERMS.—

"(A) IN GENERAL.—The terms of members of the Community shall be 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed under paragraph (1)(H).

"(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the Community that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the Community shall be filled in the manner in which the original appointment was made.

"(6) OUTSIDE INVOLVEMENT.—The Community shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

"(A) health information privacy and security;

"(B) improving the health of vulnerable populations;

"(C) health care quality and patient safety, including individuals with expertise in measurement and the use of health information technology to capture data to improve health care quality and patient safety;

"(D) medical ethics;

"(E) medical and clinical research data exchange; and

"(F) developing health information technology standards and new health information technology.

"(7) QUORUM.—Ten members of the Community shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

"(d) FEDERAL AGENCIES.—

"(1) STAFF OF OTHER FEDERAL AGENCIES.—Upon the request of the Community, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Community to assist in carrying out the duties of the Community. Any such detail shall not interrupt or other-

wise affect the civil service status or privileges of the Federal employee involved.

"(2) TECHNICAL ASSISTANCE.—Upon the request of the Community, the head of a Federal agency shall provide such technical assistance to the Community as the Community determines to be necessary to carry out its duties.

"(3) OTHER RESOURCES.—The Community shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The chairperson or vice chairperson of the Community shall make requests for such access in writing when necessary.

"(e) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Community, except that the term provided for under section 14(a)(2) of such Act shall be not longer than 7 years.

"(f) SUNSET.—The provisions of this section shall not apply after September 20, 2014.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2008 through 2012.

"SEC. 3005. FEDERAL PURCHASING AND DATA COLLECTION.

"(a) COORDINATION OF FEDERAL SPENDING.—

"(1) IN GENERAL.—Not later than 1 year after the adoption by the President of a recommendation under section 3003(c)(9), a Federal agency shall not expend Federal funds for the purchase of any new health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information if such technology or system is not consistent with applicable standards adopted by the Federal Government under such section.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to restrict the purchase of minor (as determined by the Secretary) hardware or software components in order to modify, correct a deficiency in, or extend the life of existing hardware or software.

"(b) VOLUNTARY ADOPTION.—

"(1) IN GENERAL.—Any standards and implementation specifications adopted by the Federal Government under section 3003(c)(9) shall be voluntary with respect to private entities.

"(2) REQUIREMENT.—Private entities that enter into a contract with the Federal Government

shall adopt the standards and implementation specifications adopted by the Federal Government under section 3003 for the purpose of activities under such Federal contract.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards and implementation specifications adopted by the Federal Government under this section with respect to activities not related to the contract.

"(c) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in section 3003(c)(9), all Federal agencies collecting health data in an electronic format for the purposes of quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary, shall comply with the standards and implementation specifications adopted under such section.

"SEC. 3006. QUALITY AND EFFICIENCY REPORTS.

"(a) PURPOSE.—The purpose of this section is to provide for the development of reports based on Federal health care data and private data that is publicly available

or is provided by the entity making the request for the report in order to—

"(1) improve the quality and efficiency of health care and advance health care research;

"(2) enhance the education and awareness of consumers for evaluating health care services; and

"(3) provide the public with reports on national, regional, and provider- and supplier-specific performance, which may be in a provider- or supplier-identifiable format.

"(b) PROCEDURES FOR THE DEVELOPMENT OF REPORTS.—

"(1) IN GENERAL.—Notwithstanding section 552(b)(6) or 552a(b) of title 5, United States Code, not later than 12 months after the date of the enactment of this title, the Secretary, in accordance with the purpose described in subsection (a), shall establish and implement procedures under which an entity may submit a request to a Health Quality Organization for the Organization to develop a report based on—

"(A) Federal health care data disclosed to the Organization under subsection (c); and

"(B) private data that is publicly available or is provided to the Organization by the entity making the request for the report.

"(2) DEFINITIONS.—In this section:

"(A) FEDERAL HEALTH CARE DATA.—The term 'Federal health care data' means—

"(i) de-identified patient enrollment data, reimbursement claims, and survey data maintained by the Secretary or entities under programs, contracts, grants, or memoranda of understanding administered by the Secretary; and

"(ii) where feasible, other de-identified patient enrollment data, reimbursement claims, and survey data maintained by the Federal Government or entities under contract with the Federal Government.

"(B) HEALTH QUALITY ORGANIZATION.—The term 'Health Quality Organization' means an entity with a contract under subsection (d).

"(c) ACCESS TO FEDERAL HEALTH CARE DATA.—

"(1) IN GENERAL.—The procedures established under subsection (b)(1) shall provide for the secure disclosure of Federal health care data to each Health Quality Organization.

"(2) UPDATE OF INFORMATION.—Not less than every 6 months, the Secretary shall update the information disclosed under paragraph (1) to Health Quality Organizations.

"(d) HEALTH QUALITY ORGANIZATIONS.—

"(1) IN GENERAL.—

"(A) THREE CONTRACTS.—Subject to subparagraph (B), the Secretary shall enter into a contract with 3 private entities to serve as Health Quality Organizations under which an entity shall—

"(i) store the Federal health care data that is to be disclosed under subsection (c); and

"(ii) develop and release reports pursuant to subsection (e).

"(B) ADDITIONAL CONTRACTS.—If the Secretary determines that reports are not being developed and released within 6 months of the receipt of the request for the report, the Secretary shall enter into contracts with additional private entities in order to ensure that such reports are developed and released in a timely manner.

"(2) QUALIFICATIONS.—The Secretary shall enter into a contract with an entity under paragraph (1) only if the Secretary determines that the entity—

"(A) has the research capability to conduct and complete reports under this section;

"(B) has in place—

"(i) an information technology infrastructure to support the database of Federal health care data that is to be disclosed to the entity; and

"(ii) operational standards to provide security for such database;

"(C) has experience with, and expertise on, the development of reports on health care quality and efficiency; and

"(D) has a significant business presence in the United States.

"(3) CONTRACT REQUIREMENTS.—Each contract with an entity under paragraph (1) shall contain the following requirements:

"(A) ENSURING BENEFICIARY PRIVACY.—

"(i) HIPAA.—The entity shall meet the requirements imposed on a covered entity for purposes of applying part C of title

XI of the Social Security Act and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

'"(ii) PRIVACY.—The entity shall provide assurances that the entity will not use the Federal health care data disclosed under subsection (c) in a manner that violates sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually identifiable health information.

"(B) PROPRIETARY INFORMATION.—The entity shall provide assurances that the entity will not disclose any negotiated price concessions, such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations, obtained by health care providers or suppliers or health care plans, or any other proprietary cost information.

"(C) DISCLOSURE.—The entity shall disclose—

"(i) any financial, reporting, or contractual relationship between the entity and any health care provider or supplier or health care plan; and

"(ii) if applicable, the fact that the entity is managed, controlled, or operated by any health care provider or supplier or health care plan.

"(D) COMPONENT OF ANOTHER ORGANIZATION.—If the entity is a component of another organization—

"(i) the entity shall maintain Federal health care data and reports separately from the rest of the organization and establish appropriate security measures to maintain the confidentiality and privacy of the Federal health care data and reports; and

"(ii) the entity shall not make an unauthorized disclosure to the rest of the organization of Federal health care data or reports in breach of such confidentiality and privacy requirement.

"(E) TERMINATION OR NONRENEWAL.—If a contract under this section is terminated or

not renewed, the following requirements shall apply:

"(i) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this section with respect to all Federal health care data disclosed to the entity and each report developed by the entity.

"(ii) DISPOSITION OF DATA AND REPORTS.—The entity shall—

"(I) return to the Secretary all Federal health care data disclosed to the entity and each report developed by the entity; or

"(II) if returning the Federal health care data and reports is not practicable, destroy the reports and Federal health care data.

"(4) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) shall be used to enter into contracts under paragraph (1).

"(5) REVIEW OF CONTRACT IN THE EVENT OF A MERGER OR ACQUISITION.—The Secretary shall

review the contract with a Health Quality Organization under this section in the event of a merger or acquisition of the Organization in order to ensure that the requirements under this section will continue to be met.

"(e) DEVELOPMENT AND RELEASE OF REPORTS BASED ON REQUESTS.—

"(1) REQUEST FOR A REPORT.—

"(A) REQUEST.—

"(i) IN GENERAL.—The procedures established under subsection (b)(1) shall include a process for an entity to submit a request to a Health Quality Organization for a report based on Federal health care data and private data that is publicly available or is provided by the entity making the request for the report. Such request shall comply with the purpose described in subsection (a).

"(ii) REQUEST FOR SPECIFIC METHODOLOGY.—The process described in clause (i) shall permit an entity making a request for a report to request that a specific methodology, including appropriate risk adjustment, be used by the Health

Quality Organization in developing the report. The Organization shall work with the entity making the request to finalize the methodology to be used.

"(iii) REQUEST FOR A SPECIFIC HEALTH QUALITY ORGANIZATION.—The process described in clause (i) shall permit an entity to submit the request for a report to any Health Quality Organization.

"(B) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide that at the time a request for a report is finalized under subparagraph (A) by a Health Quality Organization, the Organization shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, a brief description of both the requested report and the methodology to be used to develop such report.

"(2) DEVELOPMENT AND RELEASE OF REPORT.—

"(A) DEVELOPMENT.—

"(i) IN GENERAL.—If the request for a report complies with the purpose de-

scribed in subsection (a), the Health Quality Organization may develop the report based on the request.

"(ii) REQUIREMENT.—A report developed under clause (i) shall include a detailed description of the standards, methodologies, and measures of quality used in developing the report.

"(B) REVIEW OF REPORT BY SECRETARY TO ENSURE COMPLIANCE WITH PRIVACY REQUIREMENT.—Prior to a Health Quality Organization releasing a report under subparagraph (C), the Secretary shall review the report to ensure that the report complies with the Federal regulations (concerning the privacy of individually identifiable beneficiary health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually identifiable beneficiary health information. The Secretary shall act within 30 business days of receiving such report.

"(C) RELEASE OF REPORT.—

"(i) RELEASE TO ENTITY MAKING REQUEST.—If the Secretary finds that the report complies with the provisions described in subparagraph (B), the Health Quality Organization shall release the report to the entity that made the request for the report.

"(ii) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide for the following:

"(I) UPDATED DESCRIPTION.—At the time of the release of a report by a Health Quality Organization under clause (i), the entity shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, an updated brief description of both the requested report and the methodology used to develop such report.

"(II) COMPLETE REPORT.—Not later than 1 year after the date of the release of a report under clause (i), the report shall be made available to

the public through the Internet website of the Department of Health and Human Services and other appropriate means.

"(f) ANNUAL REVIEW OF REPORTS AND TERMINATION OF CONTRACTS.—

"(1) ANNUAL REVIEW OF REPORTS.—The Comptroller General of the United States shall review reports released under subsection (e)(2)(C) to ensure that such reports comply with the purpose described in subsection (a) and annually submit a report to the Secretary on such review.

"(2) TERMINATION OF CONTRACTS.—The Secretary may terminate a contract with a Health Quality Organization if the Secretary determines that there is a pattern of reports being released by the Organization that do not comply with the purpose described in subsection (a).

"(g) FEES.—

"(1) FEES FOR SECRETARY.—The Secretary shall charge a Health Quality Organization a fee for—

"(A) disclosing the data under subsection (c); and

"(B) conducting the review under subsection (e)(2)(B).

The Secretary shall ensure that such fees are sufficient to cover the costs of the activities described in subparagraphs (A) and (B).

"(2) FEES FOR HQO.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a Health Quality Organization may charge an entity making a request for a report a reasonable fee for the development and release of the report.

"(B) DISCOUNT FOR SMALL ENTITIES.—In the case of an entity making a request for a report (including a not-for-profit entity) that has annual revenue that does not exceed $10,000,000, the Health Quality Organization shall reduce the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

"(C) INCREASE FOR LARGE ENTITIES THAT DO NOT AGREE TO RELEASE REPORTS WITHIN 6 MONTHS.—In the case of an entity making a request for a report that is not described in subparagraph (B) and that does not agree to the report being released to the public

under clause (ii)(II) of subsection (e)(2)(C) within 6 months of the date of the release of the report to the entity under clause (i) of such subsection, the Health Quality Organization shall increase the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to effect the requirement that a report be released to the public under clause (ii)(II) of subsection (e)(2)(C) by not later than 1 year after the date of the release of the report to the requesting entity under clause (i) of such subsection.

"(h) COORDINATION.—Not later than 1 year after the date of the enactment of this title, the Secretary shall submit a report (including recommendations) to the appropriate committees of Congress concerning the coordination of existing Federal health care quality initiatives.

"(i) REGULATIONS.—Not later than 6 months after the date of the enactment of this title, the Secretary shall prescribe regulations to carry out this section.

"SEC. 3007. RESEARCH ACCESS TO HEALTH CARE DATA AND REPORTING ON PERFORMANCE.

"The Secretary shall permit researchers that meet criteria used to evaluate the appropriateness of the release data for research purposes (as established by the Secretary) to—

"(1) have access to all Federal health care data (as defined in section 3006(b)(2)(A)); and

"(2) report on the performance of health care providers and suppliers, including reporting in a provider- or supplier-identifiable format.".

TITLE II—FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY

SEC. 201. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

Title XXX of the Public Health Service Act, as added by section 101, is amended by adding at the end the following:

"SEC. 3008. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

"(a) COMPETITIVE GRANTS FOR ADOPTION OF TECHNOLOGY.—

"(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability measures;

"(C) adopt the standards adopted by the Federal Government under section 3003;

"(D) implement the measures adopted under section 3011 and report to the Secretary on such measures;

"(E) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

"(F) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the

design, implementation, and use of qualified health information technology systems;

"(G) demonstrate significant financial need;

"(H) provide matching funds in accordance with paragraph (4); and

"(I) be a—

."(i) public or not-for-profit hospital;

"(ii) federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act);

"(iii) individual or group practice (or a consortium thereof); or

"(iv) another health care provider not described in clause (i) or (ii);

that serves medically underserved communities.

"(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to—

"(A) facilitate the purchase of qualified health information technology systems;

"(B) train personnel in the use of such systems;

"(C) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness

among consumers of health care privacy protections); or

"(D) improve the prevention and management of chronic disease.

"(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection, an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

"(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

"(A) eligible entities that will improve the degree to which such entity will link the qualified health information system to local or regional health information plan or plans; and

"(B) with respect to awards made for the purpose of providing care in an outpatient medical setting, entities that organize their practices as a patient-centered medical home.

"(b) COMPETITIVE GRANTS FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

"(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

"(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this subsection. Amounts received under a grant under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any such State loan fund.

"(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a State shall—

"(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

"(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

"(D) require that health care providers receiving loans under the grant—

"(i) link, to the extent practicable, the qualified health information system to a local or regional health information network;

"(ii) consult, as needed, with the Health Information Technology Resource Center established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology;

"(iii) agree to notify individuals if their individually identifiable health information is wrongfully disclosed; and

"(iv) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design and implementation and use of qualified health information technology systems;

"(E) require that health care providers receiving loans under the grant adopt the standards adopted by the Federal Government under section 3003;

"(F) require that health care providers receiving loans under the grant implement the measures adopted under section 3011 and report to the Secretary on such measures; and

"(G) provide matching funds in accordance with paragraph (8).

"(4) STRATEGIC PLAN.—

"(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

"(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

"(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

"(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund;

"(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund; and

"(iv) a description of the strategies the State will use to address challenges in the adoption of health information technology due to limited broadband access.

"(5) USE OF FUNDS.—

"(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to—

"(i) facilitate the purchase of qualified health information technology systems;

"(ii) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness among consumers of health

care of privacy protections and privacy rights); or

"(iii) train personnel in the use of such systems.

"(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

"(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

"(ii) to conduct activities for which Federal funds are expended under other provisions of this title or the amendments made by the Promoting Health Information Technology Act; or

"(iii) for any purpose other than making loans to eligible entities under this section.

"(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

"(A) To award loans that comply with the following:

"(i) The interest rate for each loan shall be less than or equal to the market interest rate.

"(ii) The principal and interest payments on each loan shall commence not later than 1 year after the date on which the loan was awarded, and each loan shall be fully amortized not later than 10 years after such date.

"(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

"(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

"(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

"(D) To earn interest on the amounts deposited into the State loan fund.

"(7) ADMINISTRATION OF STATE LOAN FUNDS.—

"(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if not otherwise prohibited by the law under which the State loan fund was established.

"(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of the enactment of this title.

"(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promul-

gate regulations as may be necessary to carry out the provisions of this subsection, including—

"(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

"(ii) guidance to prevent waste, fraud, and abuse.

"(D) PRIVATE SECTOR CONTRIBUTIONS.—

"(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

"(ii) AVAILABILITY OF INFORMATION.—A State shall make publicly available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

"(8) MATCHING REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

"(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

"(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

"(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and

Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

"(c) COMPETITIVE GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

"(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, implementation specifications and certification criteria, and other requirements adopted by the Secretary under section 3011.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) demonstrate financial need to the Secretary;

"(B) demonstrate that one of its principal missions or purposes is to use information technology to improve health care quality and efficiency;

"(C) adopt bylaws, memoranda of understanding, or other charter documents that demonstrate that the governance structure and decisionmaking processes of such entity allow for participation on an ongoing basis by multiple stakeholders within a community, including—

"(i) health care providers (including health care providers that provide services to low income and underserved populations);

"(ii) pharmacists or pharmacies;

"(iii) health plans;

"(iv) health centers (as defined in section 330(b)) and federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) and rural health clinics (as defined in section 1861(aa) of the Social Security Act), if such centers or clinics are present in the community served by the entity;

"(v) patient or consumer organizations;

"(vi) organizations dedicated to improving the health of vulnerable populations;

"(vii) employers;

"(viii) State or local health departments; and

"(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

"(D) demonstrate the participation, to the extent practicable, of stakeholders in the electronic exchange of health information within the local or regional plan pursuant to subparagraph (C);

"(E) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation in the health information plan by all stakeholders;

"(F) adopt the standards adopted by the Secretary under section 3003;

"(G) require that health care providers receiving such grants—

"(i) implement the measures adopted under section 3011 and report to the Secretary on such measures; and

"(ii) take into account the input of employees and staff who are directly in-

volved in patient care of such health care providers in the design, implementation, and use of health information technology systems;

"(H) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

"(I) facilitate the electronic exchange of health information within the local or regional area and among local and regional areas;

"(J) prepare and submit to the Secretary an application in accordance with paragraph (3);

"(K) agree to provide matching funds in accordance with paragraph (5); and

"(L) reduce barriers to the implementation of health information technology by providers..

"(3) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) REQUIRED INFORMATION.—At a minimum, an application submitted under this paragraph shall include—

"(i) clearly identified short-term and long-term objectives of the regional or local health information plan;

"(ii) a technology plan that complies with the standards, implementation specifications, and certification criteria adopted under section 3003(c)(7) and that includes a descriptive and reasoned estimate of the costs of the hardware, software, training, and consulting services necessary to implement the regional or local health information plan;

"(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 3011;

"(iv) a plan that describes provisions to encourage the implementation of the electronic exchange of health information by all health care providers participating in the health information plan;

"(v) a plan to ensure the privacy and security of individually identifiable health information that is consistent with Federal and State law;

"(vi) a governance plan that defines the manner in which the stakeholders will jointly make policy and operational decisions on an ongoing basis;

"(vii) a financial or business plan that describes—

"(I) the sustainability of the plan;

"(II) the financial costs and benefits of the plan; and

"(III) the entities to which such costs and benefits will accrue;

"(viii) a description of whether the State in which the entity resides has received a grant under section 319D, alone or as a part of a consortium, and if the State has received such a grant, how the entity will coordinate the activities funded under section 319D with the system under this section; and

"(ix) in the case of an applicant entity that is unable to demonstrate the participation of all stakeholders pursuant to paragraph (2)(C), the justification from the entity for any such nonparticipation.

"(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

"(5) MATCHING REQUIREMENT.—

"(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 50 percent of such costs ($1 for each $2 of Federal funds provided under the grant).

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under subparagraph (A) may be in cash

or in kind, fairly evaluated, including equipment, technology, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(d) REPORTS.—Not later than 1 year after the date on which the first grant is awarded under this section, and annually thereafter during the grant period, an entity that receives a grant under this section shall submit to the Secretary a report on the activities carried out under the grant involved. Each such report shall include—

"(1) a description of the financial costs and benefits of the project involved and of the entities to which such costs and benefits accrue;

"(2) an analysis of the impact of the project on health care quality and safety;

"(3) a description of any reduction in duplicative or unnecessary care as a result of the project involved; and

"(4) other information as required by the Secretary.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $163,000,000 for fiscal year 2008, $163,000,000 for fiscal year 2009, and such sums as may be necessary for each of fiscal years 2010 through 2012.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available through fiscal year 2012.

"SEC. 3009. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

"(a) IN GENERAL.—The Secretary may award grants to eligible entities or consortia under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals or analyze clinical data sets to discover quality measures. Such awards shall be made on a competitive basis and pursuant to peer review.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity or consortium shall—

"(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(2) be or include—

"(A) a health professions school;

"(B) a school of nursing; or

"(C) an institution with a graduate medical education program;

"(3) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients and the efficiency of health care delivery; and

"(4) provide matching funds in accordance with subsection (d).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity or consortium shall use amounts received under the grant in collaboration with 2 or more disciplines.

"(2) LIMITATION.—An eligible entity or consortium shall not award a grant under subsection (a) to purchase hardware, software, or services.

"(d) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may award a grant to an entity or consortium under this section only if the entity of consortium agrees to make available non-Federal contributions toward the costs of

the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including equipment or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions.

"(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

"(f) REPORTS.—Not later than 1 year after the date of the enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

"(1) describes the specific projects established under this section; and

"(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2008 through 2011.

"(h) SUNSET.—The provisions of this section shall not apply after September 30, 2012.".

TITLE III—IMPROVING THE QUALITY OF HEALTH CARE

SEC. 301. CONSENSUS PROCESS FOR THE ADOPTION OF QUALITY MEASURES FOR USE IN THE NATIONWIDE INTEROPERABLE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

Title XXX of the Public Health Service Act, as amended by section 201, is further amended by adding at the end the following:

"SEC. 3010. FOSTERING DEVELOPMENT AND USE OF HEALTH CARE QUALITY MEASURES.

"(a) IN GENERAL.—The Secretary shall provide for the development and use of health care quality measures (referred to in this title as 'quality measures') for the purpose of measuring the quality and efficiency of health care that patients receive.

"(b) DESIGNATION OF, AND ARRANGEMENT WITH, ORGANIZATION.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this title, the Secretary shall designate, and have in effect an arrangement with, a single organization that meets the requirements of subsection (c) under which such organization will promote the development of quality measures and provide the Secretary with advice and recommendations on the key elements and priorities of a national system for health care performance measurement.

"(2) RESPONSIBILITIES.—The responsibilities to be performed by the organization designated under paragraph (1) (referred to in this title as the 'designated organization') shall include—

"(A) establishing and managing an integrated national strategy and process for setting priorities and goals in establishing quality measures;

"(B) coordinating and harmonizing the development and testing of such measures;

"(C) establishing standards for the development and testing of such measures;

"(D) endorsing national consensus quality measures;

"(E) recommending, in collaboration with multi-stakeholder groups, quality measures to the Secretary for adoption and use;

"(F) promoting the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information; and

"(G) providing recommendations and advice to the Partnership regarding the integration of quality measures into the certification process outlined under section 3003 and the Community regarding national policies outlined under section 3004.

"(c) REQUIREMENTS DESCRIBED.—The requirements described in this subsection are the following:

"(1) PRIVATE ENTITY.—The organization shall be a private nonprofit entity that is governed by a board of directors and an individual who is designated as president and chief executive officer.

"(2) BOARD MEMBERSHIP.—The members of the board of directors of the entity shall include representatives of—

"(A) health care providers or groups representing providers;

"(B) health plans or groups representing health plans;

"(C) patients or consumers enrolled in such plans or groups representing individuals enrolled in such plans;

"(D) health care purchasers and employers or groups representing purchasers or employers; and

"(E) organizations that develop health information technology standards and new health information technology.

"(3) OTHER MEMBERSHIP REQUIREMENTS.—The membership of the board of directors of the entity shall be representative of individuals with experience with—

"(A) urban health care issues;

"(B) safety net health care issues;

"(C) rural or frontier health care issues;

"(D) quality and safety issues;

"(E) State or local health programs;

"(F) individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and

with expertise in outcomes and effectiveness research and technology assessment; and

"(G) individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

"(4) OPEN AND TRANSPARENT.—With respect to matters related to the arrangement with the Secretary under subsection (a)(1), the organization shall conduct its business in an open and transparent manner, and provide the opportunity for public comment and ensure a balance among disparate stakeholders, so that no member organization unduly influences the work of the organization.

"(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATIONS.—The organization shall operate as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

"(6) PARTICIPATION.—If the organization requires a fee for membership, the organization shall

ensure that such fee is not a substantial barrier to participation in the entity's activities related to the arrangement with the Secretary.

"(d) REQUIREMENTS FOR MEASURES.—The quality measures developed under this title shall comply with the following:

"(1) MEASURES.—The designated organization, in promoting the development of quality measures under this title, shall ensure that such measures—

"(A) are evidence-based, reliable, and valid;

"(B) include—

"(i) measures of clinical processes and outcomes, patient experience, efficiency, and equity; and

"(ii) measures to assess effectiveness, timeliness, patient self-management, patient centeredness, and safety; and

"(C) include measures of underuse and overuse.

"(2) PRIORITIES.—In carrying out its responsibilities under this section, the designated organization shall ensure that priority is given to—

"(A) measures with the greatest potential impact for improving the performance and efficiency of care;

"(B) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers;

"(C) measures which may inform health care decisions made by consumers and patients;

"(D) measures that apply to multiple services furnished by different providers during an episode of care;

"(E) measures that can be integrated into the certification process described in section 3003; and

"(F) measures that may be integrated into the decision support function of qualified health information technology.

"(3) RISK ADJUSTMENT.—The designated organization, in consultation with performance measure developers and other stakeholders, shall establish procedures to ensure that quality measures take into account differences in patient health status, patient characteristics, and geographic location, as appropriate.

"(4) MAINTENANCE.—The designated organization, in consultation with owners and developers of quality measures, shall require the owners or developers of quality measures to update and enhance such measures, including the development of more accurate and precise specifications, and retire existing outdated measures. Such updating shall occur not more often than once during each 12-month period, except in the case of emergency circumstances requiring a more immediate update to a measure.

"(e) GRANTS FOR PERFORMANCE MEASURE DEVELOPMENT.—The Secretary, acting through the Agency for Healthcare Research and Quality, may award grants, in amounts not to exceed $50,000 each, to organizations to support the development and testing of quality measures that meet the standards established by the designated organization.

"SEC. 3011. ADOPTION AND USE OF QUALITY MEASURES; REPORTING.

"(a) IN GENERAL.—For purposes of carrying out activities authorized or required by this title to ensure the use of quality measures and to foster uniformity between health care quality measures utilized by private entities, the Secretary shall—

"(1) select quality measures for adoption and use, from quality measures recommended by multi-stakeholder groups and endorsed by the designated organization; and

"(2) ensure that standards adopted under section 3003 integrate the quality measures endorsed, adopted, and utilized under this section.

"(b) RELATIONSHIP WITH PROGRAMS UNDER THE SOCIAL SECURITY ACT.—The Secretary shall ensure that the quality measures adopted under this section—

"(1) complement quality measures developed by the Secretary under programs administered by the Secretary under the Social Security Act, including programs under titles XVIII, XIX, and XXI of such Act; and

"(2) do not conflict with the needs and priorities of the programs under titles XVIII, XIX, and XXI of such Act, as set forth by the Administrator of the Centers for Medicare & Medicaid Services.

"(c) REPORTING.—The Secretary shall implement procedures, consistent with generally accepted standards, to enable the Department of Health and Human Services to accept the electronic submission of data for purposes of performance measurement, including at the provider

level, using the quality measures developed, endorsed, and adopted pursuant to this title.

"(d) DISSEMINATION OF INFORMATION.—In order to make comparative performance information available to health care consumers, health professionals, public health officials, oversight organizations, researchers, and other appropriate individuals and entities, after consultation with multi-stakeholder groups, the Secretary shall promulgate regulations to provide for the dissemination, aggregation, and analysis of quality measures collected pursuant to this title.".

TITLE IV—PRIVACY AND SECURITY

SEC. 401. PRIVACY AND SECURITY.

Title XXX of the Public Health Service Act, as amended by section 301, is further amended by adding at the end the following:

"SEC. 3012. ENSURING PRIVACY AND SECURITY.

"(a) PRIVACY PROTECTIONS APPLY TO HEALTH INFORMATION ELECTRONIC DATABASES.—An operator of a health information electronic database shall be deemed to be a 'covered entity' for purposes of sections 1171 through 1179 of the Social Security Act and the regulations promulgated under section 264(c) of the Health Insurance

Portability and Accountability Act of 1996 (referred to in this section as the 'HIPAA privacy regulations').

"(b) HEALTH INFORMATION ELECTRONIC DATABASE DEFINED.—In this section, the term 'operator of a health information electronic database' means an entity that—

"(1) is constituted, organized, or chartered for the primary purpose of maintaining or transmitting protected health information in a designated record set or sets;

"(2) receives valuable consideration for maintaining or transmitting protected health information in a designated record set or sets; and

"(3) is not a provider, a payer, a health care clearinghouse or business associate of a covered entity as such terms are defined in the HIPAA privacy regulations.

"(c) RIGHT OF INDIVIDUALS TO INSPECT THEIR MEDICAL RECORDS MAINTAINED IN ELECTRONIC FORMAT.—To the extent provided for under the HIPAA privacy regulations with respect to protected health information, an individual shall have a right of access to inspect and obtain a copy of protected health information about the individual stored in electronic format.

"(d) RIGHTS OF INDIVIDUALS WHO ARE VICTIMS OF MEDICAL FRAUD.—To the extent provided for under the

HIPAA privacy regulations and under the conditions specified in such regulations, with respect to protected health information, an individual who is a victim of medical fraud or who believes that there is an error in their protected health information stored in an electronic format shall have the right—

"(1) to have access to inspect and obtain a copy of protected health information about the individual, including the information fraudulently entered, in a designated record set; and

"(2) to have a covered entity amend protected health information or a record about the individual, including information fraudulently entered, in a designated electronic record set for as long as the protected health information is maintained in the designated electronic record set to ensure that fraudulent and inaccurate health information is not shared or re-reported.

"(e) RIGHT OF INDIVIDUALS TO BE NOTIFIED FOLLOWING WRONGFUL DISCLOSURE.—In a manner consistent with the HIPAA privacy regulations with respect to accounting for disclosures of protected health information, an individual shall have the right to be notified by a covered entity if that covered entity wrongfully discloses protected health information and the wrongful disclosure

is materially expected to result in medical fraud or identity theft. The Secretary shall promulgate rules as necessary to carry out this subsection.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supercede or otherwise limit the provisions of any contract that provides for the application of privacy protections that are greater than the privacy protections provided for under the regulations promulgated under section 264 of the Health Insurance Portability and Accountability Act of 1996.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. GAO STUDY.

Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the circumstances in which it is necessary and workable to require health plans (as defined in section 1171 of the Social Security Act (42 U.S.C. 1320d)), health care clearinghouses (as defined in such section 1171), and health care providers (as defined in such section 1171) who transmit health information in electronic form, to notify individuals if their individually identifiable health information (as defined in such section 1171) is wrongfully disclosed.

SEC. 502. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

"(d) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

"(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Health Information Technology Resource Center (referred to in this subsection as the 'Center') to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with sections 3003 and 3011.

"(2) PURPOSES.—The purposes of the Center are to—

"(A) provide a forum for the exchange of knowledge and experience;

"(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

"(C) assemble, analyze, and widely disseminate evidence and experience related to the

adoption, implementation, and effective use of interoperable health information technology;

"(D) provide for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

"(E) provide for the development of solutions to barriers to the exchange of electronic health information; and

"(F) conduct other activities identified by the States, local, or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

"(3) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the duplication of Federal efforts with respect to the estab-

lishment of the Center, regardless of whether such efforts were carried out prior to or after the enactment of this subsection.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 and 2009 to carry out this section.".

SEC. 503. FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

Section 330L of the Public Health Service Act (42 U.S.C. 254c–18) is amended to read as follows:

"SEC. 330L TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.

"(a) FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.—The Secretary may make grants to States that have adopted regional State reciprocity agreements for practitioner licensure, in order to expedite the provision of telehealth services across State lines.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012.".

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